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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,754	01/02/2004	Stephen Lister	14999	1839
<div>Roy A. Ekstrand Mattel, Inc. MI - 1518 333 Continental Blvd. El Segundo, CA 90245</div>				
			<div>EXAMINER RADA, ALEX P</div>	
			<div>ART UNIT 3714</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 05/08/2007</div>	<div>DELIVERY MODE PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,754

Applicant(s)

LISTER, STEPHEN

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>6/18/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

The examiner notes that the duty to disclose statement should read, "I acknowledge that the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56."

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claims 1-6, the preamble of claim 1 is to a source of communicated data and claims 2-6 are towards a toy system, which renders the claims indefinite because it's unclear if

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applicant is claiming a source of communicated data or a toy system. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randell et al. (US 6,415,439) in view of Duran et al. (US Pub. 2004/0049393).

Regarding claim 1, Duran et al discloses a source of communicated data providing data in a first communication link (figure 1; where a first communication link is shown); a plurality of toys each having means for receiving and recovering data via a communication link (col. 2, lines 58-62); and action means within each of the toys responsive to recovered data to create toy activity such as sound, movement or light (col. 2. line 63 – col. 3, line 9).

Regarding claim 2, Randell et al discloses wherein the first communication link is audio (col. 6, line 50 – col. 7, line 20).

Regarding claim 3, Randell et al discloses wherein the second communication link is a radio frequency signal (col. 6, line 50 – col. 7, line 20).

Regarding claim 4, Randall et al discloses wherein the source of communicated data includes a television receiver having an audio output (col. 7. lines 38-55).

Randell et al is silent in regards to a repeater having means for communicating with the source via the first communication link, means for recovering data, means for applying the data to the second communication link and means for transmitting the data to the toys via the second communication link.

Duran et al teaches a system for delivering audio content to a user through a personal messaging device in the embodiment of a plush toy bear capable of having a repeater for communicating with the source via the first communication link, means for recovering data, means for applying the data to the second communication link and means for transmitting the data to the toys via the second communication link (paragraph 0077 and figure 8). By having a repeater to communication information from the source to a device, one of ordinary skill in the art would provide a personal communication device for delivering audio content to a child that is easily accessible for receiving communications from family and friends.

Therefore, it would have would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify Randell et al to further include a repeater having means for communicating with the source via the first communication link, means for recovering data, means for applying the data to the second communication link and means for transmitting the data to the toys via the second communication link as taught by Duran et al to provide a personal communication device for delivering audio content to a child that is easily accessible for receiving communications from family and friends.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Randell et al. (US 6,415,439) in view of Duran et al. (US Pub. 2004/0049393) as applied to claim 4 above, and further in view of Rhoads et al. (US Pub. 2006/0174348).

Randell et al in view of Duran et al disclose the claimed invention as discussed above but is silent in regards the first communication link audio includes audio information having the data embedded therein; and wherein the data is embedded in the audio information utilizes a watermarking process.

Rhoads et al teaches having a portable device having embedded audio information using watermarking process (abstract). By having embedded audio information, one of ordinary skill in the art would provide age appropriate information for a particular user's such as children.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Randell et al to further include audio information having the data embedded therein; and wherein the data is embedded in the audio information utilizes a watermarking process as taught by Rhoads et al to provide age appropriate information for a particular user such as a child.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Randell et al. (US 6,415,439) in view of Duran et al. (US Pub. 2004/0049393) and Rhoads et al. (US Pub. 2006/0174348).

Regarding claim 7, Randell et al discloses a television receiver having an output for audio information (col. 7. lines 38-55); a source of television program information applied to the television (col. 7. lines 38-55); and a plurality of toys each having action means responsive to the data and means for receiving the radio frequency signal and recovering the data (col. 2. line 63 – col. 3, line 9). Randell is silent in regards to data embedded in the audio information; a repeater having means for receiving the audio information and recovering the data therefrom and means for transmitting the radio frequency signal.

Duran et al teaches a system for delivering audio content to a user through a personal messaging device in the embodiment of a plush toy bear capable of having a repeater for communicating with the different sources (paragraph 0077 and figure 8; wherein the additional elements of controllers, buffers, drivers, repeaters and receivers to enable communication). By having a repeater to communication information from the source to a device, one of ordinary skill in the art would provide a personal communication device for delivering audio content to a child that is easily accessible for receiving communications from family and friends.

Rhoads et al teaches having a portable device having embedded audio information between from the source to a users controlled device such as a plush toy. By having embedded audio information, one of ordinary skill in the art would provide age appropriate information for a particular user's such as children.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify Randell et al to include data embedded in the audio information; a repeater having means for receiving the audio information and recovering the data therefrom and means for transmitting the radio frequency signal as taught by Duran et al and Rhoads to provide a personal communication device for delivering age appropriate audio content to a child that is easily accessible for receiving communications from family and friends.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 571-272-4452. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Robert E. Pezzuto
Supervisory Patent Examiner
Art Unit 3714


APR